

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 520

Citations Affected: IC 5-2; IC 10-11-2-31; IC 32-21-5-5.5; IC 35-48-4-14.7.

Synopsis: Methamphetamine registry and other criminal information. Conference committee report for ESB 520. Requires law enforcement agencies that seize a methamphetamine laboratory to notify the criminal justice institute of the laboratory's location. Requires the criminal justice institute to operate a web site containing a list of properties that have been the site of a methamphetamine laboratory. Requires the criminal justice institute to remove a listed property from the web site when the property has been remediated or two years after seizure of the property, and provides that records of listed properties that have been removed are confidential. Establishes a procedure for determining when to list certain rental properties in the process of remediation on the web site. Requires the criminal justice institute to seek federal funds to establish and operate a methamphetamine precursor data base pilot project. Specifies that the pilot project must connect persons who: (1) sell a drug that contains the active ingredient of ephedrine or pseudoephedrine; and (2) record drug sales information in an electronic log under current law; to an electronic monitoring system that transfers the drug sales information to a central data base at the same time the drug sales information is recorded in the electronic log. Limits the pilot project to six counties. Allows only certain law enforcement officers to have access to information in the central data base. Requires persons who must collect and record sales information concerning drugs that contain ephedrine or pseudoephedrine in a paper or an electronic log to collect and record the information until June 30, 2012, instead of June 30, 2008. Permits, when necessary to avoid imminent danger to life or property, criminal intelligence assessments to be released to a government official or to: (1) another individual whose life or property is in imminent danger; (2) another individual who is responsible for protecting the life or property of another person; or (3) another individual who may be in a position to reduce or mitigate the imminent danger to life or property. **(This conference committee report: Permits, when necessary to avoid imminent danger to life or property, criminal intelligence assessments to be released to a government official or to: (1) another individual whose life or property is in imminent danger; (2) another individual who is responsible for protecting the life or property of another person; or (3) another individual who may be in a position to reduce or mitigate the imminent danger to life or property. Establishes a procedure for determining when to list certain rental properties in the process of remediation on the**

methamphetamine web site.)

Effective: July 1, 2007.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 520 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-2-4-6 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2007]: Sec. 6. Criminal intelligence information
- 4 is hereby declared confidential and may be disseminated only to
- 5 ~~another criminal justice agency~~; **in accordance with section 7 of this**
- 6 **chapter**, and only if the agency making the dissemination is satisfied
- 7 that the need to know and intended uses of the information are
- 8 reasonable and that the confidentiality of the information will be
- 9 maintained.
- 10 SECTION 2. IC 5-2-4-7 IS AMENDED TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a) Except as provided in**
- 12 **subsection (b)**, a person who knowingly releases criminal intelligence
- 13 information to an agency or person other than a criminal justice agency
- 14 commits a Class A misdemeanor.
- 15 **(b) When necessary to avoid imminent danger to life or**
- 16 **property, a criminal justice agency may disseminate an assessment**
- 17 **of criminal intelligence information to:**
- 18 **(1) a government official; or**
- 19 **(2) another individual:**
- 20 **(A) whose life or property is in imminent danger;**
- 21 **(B) who is responsible for protecting the life or property of**
- 22 **another person; or**

(C) who may be in a position to reduce or mitigate the imminent danger to life or property.

SECTION 3. IC 5-2-6-3, AS AMENDED BY P.L.173-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
 - (A) the prevention, detection, and solution of criminal offenses;
 - (B) law enforcement; and
 - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- (10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
- (12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.
- (13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.**

SECTION 4. IC 5-2-6-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. **(a) As used in this section, "institute" refers to the Indiana criminal justice institute established by section 3 of this chapter.**

(b) As used in this section, "property" refers to a structure or part of a structure that is used as a home, residence, or sleeping unit.

(c) Subject to specific appropriation by the general assembly, the institute shall establish, maintain, and operate a web site containing a list of properties that have been used as the site of a methamphetamine laboratory. The list of properties shall be based on information received from a law enforcement agency under

IC 5-2-15-3.

(d) Subject to specific appropriation by the general assembly and in accordance with subsections (h) and (i), the institute shall publish the list of properties that have been used as the site of a methamphetamine laboratory on a web site maintained by the institute. The institute shall design the web site to enable a user to easily determine whether a particular property has been used as the site of a methamphetamine laboratory. The web site shall be referred to as the "methamphetamine laboratory web site".

(e) The institute shall remove a listed property from the web site after the property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 or not more than two (2) years after the date the methamphetamine laboratory was seized by a law enforcement agency.

(f) Notwithstanding subsection (c), if property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 before it is placed on the list required under subsection (c), the institute may not place the property on the list.

(g) Records concerning a listed property that has been removed from the web site under subsection (e) are confidential.

(h) This subsection only applies to a rental unit (as defined in IC 32-31-3-8). The institute may not list a rental unit that has been used as the site of a methamphetamine laboratory on the web site until the later of the following:

(1) Thirty (30) days after the date on which the institute receives information from a law enforcement agency under IC 5-2-15-3 that the rental unit has been the site of a methamphetamine laboratory, if the owner or operator of the rental property has not provided documentation to the institute showing:

(A) that the property has been inspected by a person certified to inspect property that is polluted by a contaminant under IC 13-14-1-15; and

(B) that the owner or operator has begun the process of decontaminating the property.

(2) If the owner or operator of the rental unit provides the documentation described in subdivision (1)(A) and (1)(B) not later than thirty (30) days after the date on which the institute receives information from a law enforcement agency under IC 5-2-15-3 that the rental unit has been the site of a methamphetamine laboratory, one hundred eighty (180) days after the date on which the institute receives information from a law enforcement agency that the rental unit has been the site of a methamphetamine laboratory.

However, if the owner or operator provides documentation to the institute within the appropriate time period described in subdivision (1) or (2) that a person authorized to inspect property that is polluted by a contaminant under IC 13-14-1-15 has certified that the property is decontaminated or was not contaminated by a methamphetamine laboratory, the institute may not list the property on the web site.

(i) This subsection only applies to a rental unit (as defined in IC 32-31-3-8). The institute shall remove a rental unit listed on the web site not more than five (5) days after receiving documentation from the owner or operator of the rental property that:

(1) the property has been inspected by a person certified to inspect property that is polluted by a contaminant under IC 13-14-1-15; and

(2) that the owner or operator has begun the process of decontaminating the property.

The institute shall relist the rental unit on the web site not less than one hundred fifty (150) days after receiving documentation described in subdivisions (1) and (2), unless the owner or operator of the rental property provides documentation to the institute that a person authorized to inspect property that is polluted by a contaminant under IC 13-14-1-15 has certified that the property is decontaminated or was not contaminated by a methamphetamine laboratory.

SECTION 5. IC 5-2-6-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The institute shall:

(1) attempt to obtain federal funds to establish and operate a methamphetamine precursor data base pilot project under this section; and

(2) if the institute obtains sufficient federal funds under subdivision (1), operate and maintain the pilot project.

(b) A pilot project established under this section must connect persons who:

(1) sell a drug that contains the active ingredient of ephedrine or pseudoephedrine, or both; and

(2) record drug sales information in an electronic log under IC 35-48-4-14.7(c);

to an electronic monitoring system that transfers the drug sales information to a central data base at the same time the drug sales information is recorded in the electronic log. Drug sales information may be transferred to the central data base from not more than six (6) counties under a pilot project established under this section.

(c) Only a law enforcement officer who has the right to inspect and copy a log or the records from the completion of a log under IC 35-48-4-14.7(c) may have access to information stored in the central data base described in subsection (b). A person may not sell or release information in the central data base for a commercial purpose.

(d) Information stored in a central data base established under this section must be retained until June 30, 2012.

(e) This section expires June 30, 2012.

SECTION 6. IC 5-2-15-3, AS ADDED BY P.L.192-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

- (1) the state police department;
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; ~~and~~
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located; ~~and~~
- (4) the Indiana criminal justice institute;**

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

SECTION 7. IC 10-11-2-31, AS ADDED BY P.L.192-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) The superintendent shall adopt:

- (1) guidelines; and
- (2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-3.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to:

- (1) the department;
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; ~~and~~
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located; ~~and~~
- (4) the Indiana criminal justice institute;**

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

- (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;
- (2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;
- (3) must require the department to maintain reports filed under IC 5-2-15-3 in a manner permitting an accurate assessment of:
 - (A) the number of methamphetamine laboratories located in Indiana in a specified period;
 - (B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and
 - (C) any other information that the superintendent determines to be relevant; and
- (4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 8. IC 32-21-5-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. As used in this chapter, "methamphetamine laboratory web site" means the list of properties that have been used as the site of a methamphetamine laboratory that is published on the Internet web site maintained by the Indiana criminal justice**

institute under IC 5-2-6-19.

SECTION 9. IC 35-48-4-14.7, AS AMENDED BY P.L.151-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(5) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).

(6) "Unusual theft" means the theft or unexplained disappearance from a particular retail store of drugs containing ten (10) grams or

more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) This subsection does not apply to a convenience package. A person may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the person complies with the following conditions:

(1) The person does not sell the drug to a person less than eighteen (18) years of age.

(2) The person does not sell drugs containing more than three (3) grams of ephedrine or pseudoephedrine, or both in one (1) transaction.

(3) The person requires:

(A) the purchaser to produce a state or federal identification card;

(B) the purchaser to complete a paper or an electronic log in a format approved by the state police department with the purchaser's name, address, and driver's license or other identification number; and

(C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A person may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A retailer who in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct. This subdivision expires June 30, ~~2008~~ **2012**.

(4) The person stores the drug:

(A) behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee; or

(B) directly in front of the pharmacy counter in the direct line of sight of an employee at the pharmacy counter, in an area under constant video monitoring, if the drug is sold in a retail establishment that:

(i) is a pharmacy; or

(ii) contains a pharmacy that is open for business.

(d) A person may not purchase drugs containing more than three (3) grams of ephedrine, pseudoephedrine, or both in one (1) week.

(e) This subsection only applies to convenience packages. A person may not sell drugs containing more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A person who sells convenience packages must secure the convenience packages

1 in at least one (1) of the following ways:

2 (1) The convenience package must be stored not more than thirty
3 (30) feet away from a checkout station or counter and must be in
4 the direct line of sight of an employee at the checkout station or
5 counter.

6 (2) The convenience package must be protected by a reliable
7 anti-theft device that uses package tags and detection alarms
8 designed to prevent theft.

9 (3) The convenience package must be stored in restricted access
10 shelving that permits a purchaser to remove not more than one (1)
11 package every fifteen (15) seconds.

12 (4) The convenience package must be stored in an area that is
13 under constant video monitoring, and a sign placed near the
14 convenience package must warn that the area is under constant
15 video monitoring.

16 (f) A retail distributor, wholesaler, or manufacturer shall report a
17 suspicious order to the state police department in writing.

18 (g) Not later than three (3) days after the discovery of an unusual
19 theft at a particular retail store, the retailer shall report the unusual theft
20 to the state police department in writing. If three (3) unusual thefts
21 occur in a thirty (30) day period at a particular retail store, the retailer
22 shall, for at least one hundred eighty (180) days after the date of the last
23 unusual theft, locate all drugs containing ephedrine or pseudoephedrine
24 at that particular retail store behind a counter in an area inaccessible to
25 a customer or in a locked display case that makes the drug unavailable
26 to customers without the assistance of an employee.

27 (h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance
28 after February 1, 2005, that is more stringent than this section.

29 (i) A person who knowingly or intentionally violates this section
30 commits a Class C misdemeanor. However, the offense is a Class A
31 misdemeanor if the person has a prior unrelated conviction under this
32 section.

33 (j) Before June 30, 2007, the state police department shall submit a
34 report to the legislative council detailing the effectiveness of this
35 section in reducing the illicit production of methamphetamine. The
36 report must describe the number of arrests or convictions that are
37 attributable to the identification and logging requirements contained in
38 this section, and must include recommendations for future action. The
39 report must be in an electronic format under IC 5-14-6

(Reference is to ESB 520 as printed April 6, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 520

Signed by:

Senator Young R Michael
Chairperson

Representative Van Haaften

Senator Lanane

Representative Torr

Senate Conferees

House Conferees